

## CHAPTER 421C

## STATE DEBT COLLECTIONS

[P] Future repeal of chapter; see §421C.5

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**421C.1 State debt coordinator — established — duties — authority.**

1. The office of the state debt coordinator is established within the department of revenue for administrative and budgetary purposes. The office is to be headed and administered by the state debt coordinator.

a. The governor shall appoint the coordinator, subject to senate confirmation. The coordinator shall possess an expert knowledge of and skills in the field of debt collection and have an intricate understanding of the workings of state government. The coordinator's term of office shall be four years, beginning July 1 of the year of appointment and ending on June 30 of the year of expiration.

b. If a vacancy occurs in the office of the state debt coordinator, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment was made.

c. The coordinator shall not engage in any occupation, business, or profession that would interfere with or be inconsistent with the coordinator's duties. The coordinator shall not serve on or under any committee of any political party or actively campaign on behalf of a candidate for elective office.

2. The duties of the coordinator shall include all of the following:

a. Coordinating the internal operations of the office and developing and implementing policies and procedures designed to ensure the efficient administration of the office.

b. Appointing all personnel deemed necessary for the administration of the functions of the office as provided by this chapter.

c. Developing and recommending legislative proposals deemed necessary for the continued efficiency of the office's functions and reviewing legislative proposals related to matters within the office's purview.

d. Reviewing the debt collection practices of each branch of state government, except the practices related to the collection of delinquent child support obligations.

e. Coordinating the collection efforts of each branch of state government.

f. Making recommendations to the general assembly to improve and increase debt collection efficiencies and practices.

g. Filing a notice of a lien and negotiating a settlement as provided in section 421C.2.

h. Managing the debt settlement program established in section 421C.3.

i. Accepting and maintaining county attorney collection reports required under section 602.8107, subsection 4.

j. Accepting and reviewing county attorney applications to the debt settlement program as required by section 421C.4.

k. Adopting rules deemed necessary for the administration of this chapter in accordance with chapter 17A.

l. Assisting the director of revenue in preparing the annual budget request related to the office pursuant to section 8.23.

m. Reporting annually to the department of management and the legislative services agency on additional full-time equivalent positions added during the previous fiscal year and the direct and indirect costs related to adding such full-time equivalent positions.

3. The state debt coordinator shall have the authority to appoint a designee to carry out certain duties provided in this chapter.

4. Notwithstanding any other law to the contrary, the office of the state debt coordinator shall be provided access to all state debt collection information, including full viewing access

to the Iowa court information system, for the purpose of collecting personal identifying information and collecting or coordinating debt collection efforts. This section does not apply to debt collection information related to delinquent child support obligations.

5. Personal identifying information or financial information obtained by the state debt coordinator or a designee shall not be divulged to any person or entity, other than to the debtor, unless the information is used in a matter related to the collection of a debt obligation owed the state.

2010 Acts, ch 1146, §9, 27

[P] Senate confirmation, §2.32

[T] NEW section

#### **421C.2 Notice of lien in civil action.**

1. When a debt obligation is owed the state, the state debt coordinator, on behalf of the state, shall have a right to a lien against all monetary claims arising from a civil action which the debtor may file against a third party. A lien under this section becomes effective once the state debt coordinator files a notice of lien with the clerk of the district court in the county where the civil action identified by the state debt coordinator is filed and sends notice of the lien to the debtor and to the debtor's attorney or other representative, if applicable. To be effective against a monetary claim, the notice of lien must be filed before a third party has concluded a final settlement with the debtor, the debtor's attorney, or other representative. The lien shall only be effective against the monetary claim in the civil action against which the lien is filed. The third party shall obtain a written determination from the state debt coordinator concerning the amount of the lien before a settlement is deemed final for purposes of this section. A compromise, including but not limited to a settlement, waiver, or release, of a monetary claim under this section does not defeat the state debt coordinator's lien except upon written agreement by the coordinator or the coordinator's designee. A settlement, award, or judgment structured in any manner that does not include a debt obligation owed the state does not defeat the state court debt coordinator's lien if there is any recovery by the debtor unless a written agreement has been entered into between the state debt coordinator or the coordinator's designee and the debtor.

2. The judicial branch shall cooperate with the state debt coordinator to determine the most efficient way to identify a debtor who has a claim against a third party. The state debt coordinator shall be provided viewing access to the Iowa court information system as provided in section 421C.1 to determine if a debtor owes a debt obligation to the state. The debtor's attorney shall not have the responsibility to notify the state that a debtor has filed a civil action against a third party.

3. The state debt coordinator's lien is valid and binding on an attorney, insurer, or other third party only upon actual notice given by the state debt coordinator.

4. An insurer or attorney representing a debtor on a monetary claim upon which the state debt coordinator has a lien under this section shall notify the state debt coordinator of a negotiated settlement or verdict, if actual notice of the lien has been provided in the following manner:

a. The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the debtor and to the debtor's attorney or other representative, if applicable, at the location used for service of original notice.

b. The mailing and deposit in a United States post office or public mailing box of the notice, addressed to a third party, at the location used for service of original notice.

5. a. Upon resolution of the civil action against which a lien has been filed and actual notice of the lien has been given, the court costs and reasonable attorney fees and expenses, hospital liens filed pursuant to chapter 582 and other subrogated medical expenses shall first be deducted from any total judgment or settlement obtained. At least one-third of the remaining balance shall then be deducted and paid to the debtor. From the remaining balance, the state debt coordinator shall have the authority to negotiate a settlement of any debt obligation owed the state that is noted in the lien, including forgiving the entire balance due, based upon the circumstances of the case, costs incurred in pursuing the matter, and the element of the damages awarded. After deducting payments in accordance with this

subsection and negotiating a settlement of the lien, any payments to satisfy the lien shall be paid to the state debt coordinator. The state debt coordinator shall transfer any moneys collected to the appropriate accounts to satisfy the debt owed. The state debt coordinator shall file a satisfaction of the lien in the civil action if the state debt coordinator, pursuant to this subsection, settles any part of the debt obligation owed the state.

b. In circumstances where a lien encompasses multiple claims by state entities, the priority of payment made to the state debt coordinator shall first be a credit against tax due as provided in section 422.73, and the remaining balance shall be distributed in accordance with section 8A.504, subsection 3.

c. During the negotiation process pursuant to this section the state debt coordinator shall make a determination whether the amount to be received by the coordinator under paragraph “a” shall be considered as full payment of the debt obligation owed the state. If the state debt coordinator settles any debt obligation owed the state that is for less than the actual amount owed the state, the state debt coordinator may determine that the debt obligation owed the state is paid in full. If settlement is reached that is for less than the amount of the debt obligation owed the state, and the state debt coordinator notifies the applicable state department, agency, or branch that the debt obligation is paid in full, the state department, agency, or branch receiving the notification shall indicate in the records of the state department, agency, or branch that the debt obligation owed the department, agency, or branch is paid in full.

6. Except as provided in subsection 7, the state debt coordinator may enforce its lien by a civil action against any liable third party if a judgment or settlement was paid to the debtor without notifying the state debt coordinator as provided in this section.

7. An insurance company that makes a payment to the debtor or the debtor’s attorney in a civil action that is subject to a lien under this section shall have no further liability for the lien filed in the civil action.

8. As used in this section, unless the context otherwise requires:

a. “*Insurance company*” means an insurer organized or operating under chapter 508, 514, 514B, 515, 518, 518A, 519, or 520, or authorized to do business in Iowa as an insurer or an insurance producer under chapter 522B.

b. “*Third party*” means an individual, institution, corporation, or public or private agency which is or may be liable to pay all or part of a debtor’s monetary claim. “*Third party*” does not include a financial institution as defined in section 527.2.

2010 Acts, ch 1146, §10; 2010 Acts, ch 1193, §52

[T] NEW section

#### **421C.3 Debt settlement program.**

1. As used in this section, “*eligible debt*” means all delinquent court debt obligations defined pursuant to section 602.8107 and owed the state, except as provided in subsection 3. “*Eligible debt*” includes any interest and penalties assessed against such debt obligations.

2. The state debt coordinator, in consultation with the other branches of state government, shall establish a debt settlement program.

3. The following debt obligations are ineligible for the program:

a. Delinquent debt obligations that were imposed less than four years prior to the date of the application.

b. Victim restitution as defined in section 910.1.

c. Civil penalties assessed pursuant to section 321.218A, 321A.32A, or 321J.17.

d. Jail fees charged pursuant to section 356.7.

4. The following persons are ineligible for the program:

a. A person whose income level exceeds two hundred percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

(1) The coordinator may determine that a person whose income is at or below two hundred percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human

services, is ineligible for the program if the debt coordinator determines the person is able to pay the full amount of the delinquent debt.

(2) In making the determination of a person's ability to pay the full amount of the delinquent debt, the state debt coordinator shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the eligible debt.

b. A person who is in jail, prison, or who is under supervision during the period of incarceration or supervision.

c. A person who has previously participated in the program.

5. A person paying a delinquent court debt obligation through an established payment plan with the clerk of the district court, with the centralized collection unit of the department of revenue or its designee, with a county attorney or the county attorney's designee, or with a private collection designee, is eligible for the debt settlement program if the person and debt are eligible and if the collecting entity is a debt settlement collection designee as provided in section 421C.4. The distribution of any moneys collected by the debt settlement collection designee shall be as provided in section 421C.4.

6. Under the program the state debt coordinator is authorized to forgive not more than fifty percent of all eligible debt obligations due.

7. Payment to the state debt coordinator under the program shall be provided in a lump sum.

8. The program shall provide that upon written application and payment of the agreed upon percentage of eligible debt obligation due to the state, the state shall forgive any remaining balance of eligible debt obligation due and shall not seek any contempt or civil action or criminal prosecution against the person related to the eligible debt obligation forgiven under the program. Upon the forgiveness of the remaining balance of the eligible debt pursuant to the program, the eligible debt shall be considered by the state as paid in full.

9. The written application shall contain all case numbers associated with the eligible debt obligation due and a general description of such debt.

10. Failure to pay the amount agreed upon by the date specified shall bar the person's participation in the program for life.

11. A person who participates in the program shall relinquish all administrative and judicial rights to challenge the imposition and the amount of the eligible debt obligation owed.

12. If a driver's license is reinstated as a result of participating in the program, the person shall be required to pay a reinstatement fee as provided in section 321.191, any civil penalty assessed pursuant to section 321.218A, 321A.32A, or 321J.17, and provide proof of financial responsibility pursuant to section 321A.17, if otherwise required by law.

13. Upon paying the amount required under subsection 6, the state debt coordinator shall provide the person with a certified document detailing the case numbers paid in full under the program. Any state department, agency, or branch shall, upon the filing of a certified document detailing the cases paid in full under the program, indicate in the records of the department, agency, or branch that the case is in fact paid in full with respect to the eligible debt obligations paid under the program.

14. The coordinator shall prepare and make available debt settlement application forms which contain requirements for approval of an application. The coordinator may deny an application that is inconsistent with this section.

15. Any department, agency, or branch shall cooperate with the state debt coordinator in administering the program.

16. a. The director of revenue shall establish an account and shall deposit in the account all receipts received under the program established by the state debt coordinator. Not later than the fifteenth day of each month, the director shall deposit amounts received with the treasurer of state for deposit in the general fund of the state.

b. Of the amount of debt actually collected pursuant to the program, the department of revenue shall retain an amount, not to exceed the amount collected, that is sufficient to pay for salaries, support, maintenance, services, advertising, and other costs incurred by the

coordinator relating to the program. Revenues retained by the office pursuant to this lettered paragraph shall be considered repayment receipts as defined in section 8.2.

17. The state debt coordinator shall submit an annual report by January 1 to the chairpersons and ranking members of the joint appropriations subcommittee on justice systems and the legislative services agency, detailing the amount of debt obligations settled under the program, including the classification of the debt settled and the county of residence of persons who had debt settled under the program or with a debt settlement designee as provided in section 421C.4.

2010 Acts, ch 1146, §11, 26; 2010 Acts, ch 1193, §125, 141

[T] 2010 enactment of this section takes effect January 1, 2011; 2010 Acts, ch 1146, §26; 2010 Acts, ch 1193, §141

[T] NEW section

#### **421C.4 Debt settlement collection by designees.**

1. As used in this section, “*county attorney*” means a single county attorney office or a group of county attorney offices whose counties have entered into an agreement pursuant to chapter 28E pursuant to section 602.8107, subsection 4, to collect delinquent court debt.

2. The centralized collection unit of the department of revenue and a county attorney collecting delinquent court debt pursuant to section 602.8107, subsection 4, are eligible to act as the state debt coordinator’s designee under the debt settlement program. If the centralized collection unit of the department of revenue or a county attorney serves as the state debt coordinator’s designee the procedures of the program established in section 421C.3 apply to the designee except as otherwise provided in this section.

3. a. In order to be eligible to settle debt under the program, a county attorney shall first make application to the state debt coordinator requesting authority to act as the state debt coordinator’s designee. The state debt coordinator shall approve each application, upon a showing of commitment to collect delinquent court debt pursuant to section 602.8107, subsection 4, and upon reaffirmation to continue collection efforts pursuant to section 602.8107, subsection 4. A county attorney is not eligible to participate in the debt settlement program if the county attorney has been deemed ineligible under section 602.8107, subsection 4, paragraph “g”.

b. If a county attorney is approved to act as the state debt coordinator’s designee under the debt settlement program any eligible court debt settled that is more than four years old shall be deposited with the clerk of the district court as provided in section 602.8107, subsection 4, and distributed to the county in accordance with section 602.8107, subsection 4. For purposes of calculating the amounts distributed to the county, the amounts collected by the county attorney when acting as the state debt coordinator designee shall be considered as any other debt collected and credited to the county under the county attorney collection program pursuant to section 602.8107, subsection 4. The remainder collected by the county attorney acting as the state debt coordinator’s designee shall be remitted to the state court administrator as provided in section 602.8107, subsection 4.

4. For those counties in which a county attorney is not acting as the state debt coordinator’s designee under the debt settlement program, or for cases the centralized collection unit is collecting upon, the centralized collection unit of the department of revenue may serve as the state debt coordinator’s designee.

2010 Acts, ch 1146, §12, 26

[T] 2010 enactment of this section takes effect January 1, 2011; 2010 Acts, ch 1146, §26

[T] NEW section

#### **421C.5 Future repeal.**

This chapter is repealed January 1, 2014. The general assembly shall consider corresponding amendments to the Code of Iowa to effectuate the repeal of this chapter.

2010 Acts, ch 1146, §13

[T] NEW section